

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34162

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| STATE OF IDAHO, |) | 2008 Unpublished Opinion No. 407S |
| |) | |
| Plaintiff-Respondent, |) | Filed: June 3, 2008 |
| |) | |
| v. |) | Stephen W. Kenyon, Clerk |
| |) | |
| JOSHUA L. HARRISON, |) | SUBSTITUTE OPINION |
| |) | THE COURT'S PRIOR OPINION |
| Defendant-Appellant. |) | DATED MARCH 21, 2008 |
| |) | IN HEREBY WITHDRAWN |
| |) | |

Appeal from the District Court of the First Judicial District, State of Idaho, Bonner County. Hon. Steven C. Verby, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sara B. Thomas, Chief, Appellate Unit, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

PER CURIAM

While on felony parole for injury to a child, Joshua L. Harrison was charged with and pled guilty to being a felon in possession of a firearm, Idaho Code Section 18-3316. The district court sentenced Harrison to a unified term of five years with four years determinate. Harrison filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Harrison appeals from that denial, contending that the district court abused its discretion by denying his Rule 35 motion.

A Rule 35 motion is a request for leniency which is addressed to the sound discretion of the sentencing court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho

201, 203, 159 P.3d 838, 840 (2007). Having considered the record on appeal and applying the above-stated standard, we conclude the district court did not abuse its discretion in denying Harrison's Rule 35 motion. Accordingly, the order denying Harrison's Rule 35 motion is affirmed.